REMARKS/ARGUMENTS

Responsive to the Official Action mailed July 7, 2004, applicants have further amended the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, independent process claim 1 has been amended. Reconsideration is respectfully requested.

For the Examiner's consideration, applicants are arranging to have a sample of the fabric formed in accordance with their novel process delivered to the Examiner. The Examiner's consideration of this fabric sample would be appreciated.

In the Action, the Examiner has rejected the pending claims under 35 U.S.C. §102, or §103, with reliance upon U.S. Patent No. 3,485,706, to Evans. However, it is respectfully maintained that there is simply no recognition in this patent of applicants' unique process, as claimed, for creating a nonwoven fabric having a "distressed" texture, with laundering of the fabric effected as part of the production process. Moreover, in light of this clear absence in the teachings of the sole Evans reference, there is clearly no teaching or suggestion in this reference of *varying the level of hydroentanglement* to thereby *vary the resultant wrinkled appearance*. As specifically claimed, the present method contemplates that increasing the level of hydroentangling during the claimed hydroentangling step acts to diminish the slippage between fibers of the fabric during the recited laundering step. There is simply no suggestion or teaching

in Evans of controlling the hydroentangling to thereby affect the resultant distressed or wrinkled appearance created during laundering of the fabric during its manufacture.

Applicants understand the Examiner to be relying upon discussion in the Evans reference of washing a manufactured fabric, along with other fabrics "to simulate a normal load" in connection with "preparation of a nonwoven fabric resembling a knitted fabric and having a very high nub density" (column 46, lines 22-24). There is *no discussion* in this Example, or in any other portion of the lengthy Evans disclosure of providing a process whereby a nonwoven fabric having a *wrinkled or distressed appearance* is produced, much less any disclosure of diminishing the wrinkled effect by increasing the level of hydroentangling, as now specifically set forth in the pending claims.

In Example 36 of Evans, testing of the "resulting fabric" (clearly suggesting the *completed fabric*) reads as follows:

> The resulting fabric is removed from the plate, dried, then heat-set by placing it between 60-mesh screens and heating at 200° C. and 15 psi for 30 seconds. The fabric is then washed (along with other fabrics *to simulate a normal load*) for about 15 minutes in a commercially available, agitator-type, household washing machine, using hot water (about 50° C.) and a laundry detergent. The fabric is removed and dried in a hot-air tumbler dryer . . . the fabric is soft, drapeable, *in general, resembling a cotton knit fabric in hand and appearance*. Because of the fineness of the pattern, the fabric has a high degree of covering power.

It is respectfully maintained that the fact that Evans subjects a fabric, which *resembles a cotton knit fabric in hand and appearance*, to laundering cannot properly provide a basis for rejecting claims including laundering as a recited process step to thereby achieve a fabric having a *distressed or wrinkled appearance*.

Since there is little dispute but that Evans *does not* disclose *forming the nonwoven fabric into a roll subsequent to the laundering step*, there can be little argument but that Evans fails to anticipate the pending claims pursuant to the requirements of 35 U.S.C. §102.

Accordingly, applicants respectfully refer to M.P.E.P. Sections 2141.02, and 2143.01. As specifically provided, "ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, in considering both the invention and the prior art references *as a whole*".

"In determining the differences between the prior art and the claims, the question under 35 U.S.C. §103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious" (citations omitted). In the present instance, applicants must respectfully maintain that their claimed process, *as a whole*, is simply in no way taught or suggested by the Evans reference, including those portions of the Evans disclosure specifically relied upon by the Examiner in her rejection.

As specifically provided in M.P.E.P. Section 2143.01, "the *prior art* must suggest the desirability of the claimed invention." As specifically provided, "obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention *where there is some teaching, suggestion, or motivation to do so* found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." Further, the M.P.E.P. specifically admonishes that "the mere fact that the references can be combined or modified does not render the resultant combination obvious *unless the prior art also suggests the desirability of the combination*" (citation omitted).

In the present instance, applicants must respectfully maintain that there is simply no teaching or suggestion in the Evans reference itself of performing a laundering step to impart a distressed or wrinkled appearance to a nonwoven fabric, and an absence of such, there would simply be no reason for one skilled in the art to consider modifying the Evans teaching to arrive at applicants' unique process, as claimed. Viewed *as a whole*, as specifically required by the M.P.E.P., applicants' claimed method is clearly patentably distinct from the prior art. The Examiner has provided *no teachings* whatsoever which suggest subjecting a nonwoven fabric to laundering, to thereby effect slippage of fibers, to impart a wrinkled or distressed appearance, much less any teachings which specify that the wrinkled or distressed appearance *can be diminished* by increasing the level of hydroentangling.

Accordingly, reconsideration is respectfully requested, and it is respectfully maintained that claims 1, 4, 6, and 8-9 are in condition for allowance. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **October 7, 2004**.

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